

AMENDED IN ASSEMBLY JULY 1, 2013

AMENDED IN ASSEMBLY JUNE 17, 2013

AMENDED IN SENATE MAY 7, 2013

AMENDED IN SENATE APRIL 23, 2013

AMENDED IN SENATE APRIL 1, 2013

## SENATE BILL

**No. 318**

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**Introduced by Senators Hill, Steinberg, and Correa**  
(Coauthors: Assembly Members Alejo, Brown, and Perea)

February 19, 2013

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An act to amend Section 22750 of, ~~and~~ to add and repeal Article 3.6 (commencing with Section 22365) of Chapter 2 of Division 9 of, *and to repeal Article 3.5 (commencing with Section 22348) of Chapter 2 of Division 9 of*, the Financial Code, relating to consumer loans.

### LEGISLATIVE COUNSEL'S DIGEST

SB 318, as amended, Hill. Consumer loans: Pilot Program for Increased Access to Responsible Small Dollar Loans.

Existing law, the California Finance Lenders Law, provides for the licensure and regulation of finance lenders and brokers by the Commissioner of Corporations and makes a willful violation of its provisions a crime. Existing law regulates the charges a licensee may impose or receive on loans it makes, and authorizes a licensee to contract for and receive specified alternative charges and administrative and delinquency fees.

Existing law establishes, until January 1, 2015, the Pilot Program for Affordable Credit-Building Opportunities for the purpose of increasing the availability of credit-building opportunities to underbanked

individuals seeking low-dollar-value loans. Under the program, licensees must file an application with, and pay a fee to, the Commissioner of Corporations to participate in the program. Existing law authorizes a licensee approved by the commissioner to participate in the program to impose specified alternative interest rates and charges, including an administrative fee and delinquency fees, on loans of at least \$250 and less than \$2,500, subject to certain requirements. Existing law also authorizes licensees in the program to use the services of finders, defined as entities who, at the finder's physical location for business, bring licensees and prospective borrowers together for the purpose of negotiating loan contracts at the finder's location, subject to a written agreement meeting specified requirements.

The Governor's Reorganization Plan No. 2 of the 2011–12 Regular Session provides that, on and after July 1, 2013, certain responsibilities of the Department of Corporations and the Commissioner of Corporations will be transferred to the Department of Business Oversight and the ~~Deputy Commissioner of Business Oversight for the Division of Corporations~~ *will be the head of the Department of Business Oversight.*

This bill would *abolish the Pilot Program for Affordable Credit-Building Opportunities. The bill would, until January 1, 2018, establish the Pilot Program for Increased Access to Responsible Small Dollar Loans for the purpose of allowing greater access for responsible installment loans in principal amounts of at least \$300 and less than \$2,500. The bill would require licensees and other entities to file an application and pay a specified fee to the* ~~Deputy Commissioner of Business Oversight for the Division of Corporations~~ *to participate in the program. The bill would authorize a licensee approved by the* ~~deputy commissioner~~ *to participate in the program to impose specified alternative interest rates and charges, including an administrative fee and delinquency fees, on loans of at least \$300 and less than \$2,500, subject to certain requirements.*

This bill would also authorize a licensee in the program to use the services of finders, defined as entities who, at the finder's physical location for business, bring licensees and prospective borrowers together for the purpose of negotiating loan contracts, subject to a written agreement meeting specified requirements. The bill would establish the services a finder is authorized and required to perform, and would require a finder to comply with the laws applicable to the licensee relative to information security. The bill would require a licensee to

notify the ~~deputy~~ commissioner within 15 days of entering into a contract with a finder, would require a licensee to pay an annual finder registration fee to the ~~deputy~~ commissioner, and would require a licensee to submit an annual report to the ~~deputy~~ commissioner on the licensee's relationship and business arrangements with a finder, as specified. The bill would authorize the ~~deputy~~ commissioner to examine the operations of a licensee and a finder to ensure that the activities of the licensee and the finder are in compliance with these provisions. The bill would make a licensee that uses a finder responsible for a violation of these provisions by a finder or a finder's employee, and would authorize the ~~deputy~~ commissioner to impose administrative penalties against a finder for a violation of these provisions. The bill would authorize the ~~deputy~~ commissioner, upon a violation of these provisions, to disqualify a finder from performing services, bar a finder from performing services at one or more specific locations of the finder, terminate a written agreement between a licensee and a finder, and, under specified circumstances, prohibit the use of the finder by all licensees. The bill would authorize a licensee participating in the program to appoint one or more branch managers with responsibility for multiple branch locations, subject to approval by the ~~deputy~~ commissioner.

This bill would require the ~~deputy~~ commissioner to examine the performance of each licensee in the program at least once every 24 months, and would require the costs of examination to be paid by the licensee to the ~~deputy~~ commissioner, as specified. The bill would also require the ~~deputy~~ commissioner to conduct a random sample survey of borrowers under the program. The bill would require the ~~deputy~~ commissioner to post a report on the ~~deputy~~ commissioner's Internet Web site by January 1, 2016, and once again by January 1, 2017, summarizing utilization of the Pilot Program for Increased Access to Responsible Small Dollar Loans, as specified.

*This bill would make licensees of the abolished Pilot Program for Affordable Credit-Building Opportunities subject to the newly established Pilot Program for Increased Access to Responsible Small Dollar Loans. The bill would continue in existence any outstanding loans made under the abolished pilot program and the loans would remain subject to the terms and conditions that existed at the time the loan was made.*

Because a willful violation of these provisions would be a crime, this bill would impose a state-mandated local program.

This bill would also make a clarifying change to the California Finance Lenders Law.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Article 3.5 (commencing with Section 22348) of  
2     Chapter 2 of Division 9 of the Financial Code is repealed.

3     SECTION 1.

4     SEC. 2. Article 3.6 (commencing with Section 22365) is added  
5     to Chapter 2 of Division 9 of the Financial Code, to read:

6  
7     Article 3.6. Pilot Program for Increased Access to Responsible  
8                                 Small Dollar Loans  
9

10    22365. (a) The Pilot Program for Increased Access to  
11    Responsible Small Dollar Loans is hereby established.

12    (b) The Legislature finds and declares that consumer demand  
13    for responsible installment loans in principal amounts of at least  
14    three hundred dollars (\$300) but less than two thousand five  
15    hundred dollars (\$2,500) exceeds the supply of these loans. In  
16    2010, the Legislature enacted the Pilot Program for Affordable  
17    Credit-Building Opportunities, as a first step toward addressing  
18    this gap. California's experience to date with that pilot program  
19    has identified several improvements that could be made, which  
20    would allow more Californians to access responsible installment  
21    loans of at least three hundred dollars (\$300) but less than two  
22    thousand five hundred dollars (\$2,500). This new Pilot Program  
23    for Increased Access to Responsible Small Dollar Loans is intended  
24    to implement those improvements.

25    (c) For purposes of this article:

26    (1) ~~"Deputy commissioner"~~ "Commissioner " means the Deputy  
27    Commissioner of Business Oversight ~~for the Division of~~  
28    Corporations.

1 (2) “Program” means the Pilot Program for Increased Access  
2 to Responsible Small Dollar Loans.

3 (3) *Pursuant to Section 22380.5, “licensee” also includes a*  
4 *licensee approved to participate in the former Pilot Program for*  
5 *Affordable Credit-Building Opportunities as described in Article*  
6 *3.5 (commencing with Section 22348).*

7 22366. (a) Any entity licensed under this chapter that wishes  
8 to participate in the program, that is in good standing with the  
9 ~~Deputy Commissioner of Business Oversight for the Division of~~  
10 ~~Corporations~~ commissioner and has no outstanding enforcement  
11 actions or deficiencies at the time of its application, shall file an  
12 application with the ~~deputy~~ commissioner, in a manner prescribed  
13 by the ~~deputy~~ commissioner, and shall pay a fee to the ~~deputy~~  
14 commissioner, in an amount calculated by the ~~deputy~~ commissioner  
15 to cover its costs to administer this article.

16 (b) Any entity wishing to participate in the program that is not  
17 licensed pursuant to this chapter may submit a combined  
18 application to the ~~deputy~~ commissioner, in a manner prescribed  
19 by the ~~deputy~~ commissioner, for licensure under this chapter and  
20 admission to the program and shall pay a fee to the  
21 ~~deputy~~ commissioner in an amount equal to the fees that would  
22 have been imposed if the person had submitted separate  
23 applications. To be eligible to apply in this manner, an entity must  
24 be free of outstanding enforcement or other disciplinary actions  
25 taken against it by any of California’s financial regulators or by a  
26 financial regulator of another state.

27 22367. Every entity approved by the ~~deputy~~ commissioner to  
28 participate in the program shall file with the ~~deputy~~ commissioner  
29 on or before March 15 an annual report consistent with Section  
30 22159, separate from any other annual report the licensee may be  
31 required to file.

32 22368. Except as otherwise provided, nothing in this article  
33 shall exempt any licensee from any of the provisions of this  
34 division or Section 1632 of the Civil Code.

35 22369. No licensee may offer or make a loan, nor impose any  
36 charges or fees pursuant to Section 22370, nor use a finder pursuant  
37 to Section 22371, without prior approval from the ~~deputy~~  
38 commissioner to participate in the program.

39 22370. (a) Any loan made pursuant to this section shall comply  
40 with the following requirements:

1 (1) The loan shall be unsecured.

2 (2) Interest on the loan shall accrue on a simple-interest basis,  
3 through the application of a daily periodic rate to the actual unpaid  
4 principal balance each day.

5 (3) The licensee shall disclose the following to the consumer  
6 in writing, in a type face no smaller than 12-point type, at the time  
7 of application:

8 (A) The amount borrowed; the total dollar cost of the loan to  
9 the consumer if the loan is paid back on time, including the sum  
10 of the administrative fee, principal amount borrowed, and interest  
11 payments; the corresponding annual percentage rate, calculated in  
12 accordance with Federal Reserve Board Regulation Z (12 C.F.R.  
13 226); the periodic payment amount; the delinquency fee schedule;  
14 and the following statement: “Repaying your loan early will lower  
15 your borrowing costs by reducing the amount of interest you will  
16 pay. This loan has no prepayment penalty.”

17 (B) A statement that the consumer has the right to rescind the  
18 loan by notifying the licensee of the consumer’s intent to rescind  
19 the loan and returning the principal advanced by the end of the  
20 business day following the date the loan is consummated.

21 (4) A licensee may provide the borrower with the disclosures  
22 required by paragraph (3) in a mobile-phone application, on which  
23 the size of the type face of the disclosure can be manually modified  
24 by a prospective borrower, if the prospective borrower is given  
25 the option to print the disclosure in a type face of at least 12-point  
26 size or is provided by the licensee with a hardcopy of the disclosure  
27 in a type face of at least 12-point size before the loan is  
28 consummated.

29 (5) The loan shall have a minimum principal amount upon  
30 origination of three hundred dollars (\$300) and a term of not less  
31 than the following:

32 (A) Ninety days for loans whose principal balance upon  
33 origination is less than five hundred dollars (\$500).

34 (B) One hundred twenty days for loans whose principal balance  
35 upon origination is at least five hundred dollars (\$500), but is less  
36 than one thousand five hundred dollars (\$1,500).

37 (C) One hundred eighty days for loans whose principal balance  
38 upon origination is at least one thousand five hundred dollars  
39 (\$1,500).

1 (b) As an alternative to the charges authorized by Section 22303  
2 or 22304, a licensee approved by the ~~deputy~~ commissioner to  
3 participate in the program may contract for and receive charges  
4 for a loan made pursuant to this section at an annual simple interest  
5 rate not to exceed the lesser of 36.0 percent or the following:

6 (1) 32.75 percent plus the United States prime lending rate, as  
7 of the date of loan origination, on that portion of the unpaid  
8 principal balance of the loan up to and including, but not in excess  
9 of, one thousand dollars (\$1,000). The interest rate calculated as  
10 of the date of loan origination shall be fixed for the life of the loan.

11 (2) 28.75 percent plus the United States prime lending rate, as  
12 of the date of loan origination, on that portion of the unpaid  
13 principal balance of the loan in excess of one thousand dollars  
14 (\$1,000), but less than two thousand five hundred dollars (\$2,500).  
15 The interest rate calculated as of the date of loan origination shall  
16 be fixed for the life of the loan.

17 (c) (1) As to any loan made under this section, a licensee  
18 approved by the ~~deputy~~ commissioner to participate in the program  
19 may contract for and receive an administrative fee, which shall be  
20 fully earned immediately upon making the loan, in an amount not  
21 to exceed the applicable of the following:

22 (A) Seven percent of the principal amount, exclusive of the  
23 administrative fee, or ninety dollars (\$90), whichever is less, on  
24 the first loan made to a borrower.

25 (B) Six percent of the principal amount, exclusive of the  
26 administrative fee, or eighty dollars (\$80), whichever is less, on  
27 the second and subsequent loans made to ~~a~~ *that* borrower.

28 (2) A licensee shall not charge the same borrower an  
29 administrative fee more than once in any four-month period. An  
30 administrative fee shall not be contracted for or received in  
31 connection with the refinancing of a loan unless at least eight  
32 months have elapsed since the receipt of a previous administrative  
33 fee paid by the borrower. With the exception of a loan that is  
34 refinanced, only one administrative fee may be contracted for or  
35 received until the loan has been repaid in full. Section 22305 shall  
36 not apply to any loan made under this section.

37 (d) Notwithstanding subdivision (a) of Section 22320.5, a  
38 licensee approved by the ~~deputy~~ commissioner to participate in  
39 the program may require reimbursement from a borrower for the  
40 actual insufficient funds fees incurred by that licensee due to

1 actions of the borrower, and may contract for and receive a  
2 delinquency fee that is one of the following amounts:

3 (1) For a period of delinquency of not less than seven days, an  
4 amount not in excess of fourteen dollars (\$14).

5 (2) For a period of delinquency of not less than 14 days, an  
6 amount not in excess of twenty dollars (\$20).

7 (e) If a licensee opts to impose a delinquency fee, it shall use  
8 the delinquency fee schedule described in subdivision (d), subject  
9 to all of the following:

10 (1) No more than one delinquency fee may be imposed per  
11 delinquent payment.

12 (2) No more than two delinquency fees may be imposed during  
13 any period of 30 consecutive days.

14 (3) No delinquency fee may be imposed on a borrower who is  
15 180 days or more past due if that fee would result in the sum of  
16 the borrower's remaining unpaid principal balance, accrued interest,  
17 and delinquency fees exceeding 180 percent of the original  
18 principal amount of the borrower's loan.

19 (4) The licensee or any of its wholly owned subsidiaries shall  
20 attempt to collect a delinquent payment for a period of at least 30  
21 days following the start of the delinquency before selling or  
22 assigning that unpaid debt to an independent party for collection.

23 (f) The following shall apply to a loan made by a licensee  
24 pursuant to this section:

25 (1) Prior to disbursement of loan proceeds, the licensee shall  
26 either (A) offer a credit education program or seminar to the  
27 borrower that has been previously reviewed and approved by the  
28 ~~deputy~~ commissioner for use in complying with this section; or  
29 (B) invite the borrower to a credit education program or seminar  
30 offered by an independent third party that has been previously  
31 reviewed and approved by the ~~deputy~~ commissioner for use in  
32 complying with this section. The borrower shall not be required  
33 to participate in either of these education programs or seminars.  
34 *A credit education program or seminar offered pursuant to this*  
35 *paragraph shall be provided at no cost to the borrower.*

36 (2) The licensee shall report each borrower's payment  
37 performance to at least one consumer reporting agency that  
38 compiles and maintains files on consumers on a nationwide basis,  
39 upon acceptance as a data furnisher by that consumer reporting  
40 agency. For purposes of this section, a consumer reporting agency

1 that compiles and maintains files on consumers on a nationwide  
2 basis is one that meets the definition in Section 603(p) of the  
3 federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681a(p)). Any  
4 licensee that is accepted as a data furnisher after admittance into  
5 the program must report all borrower payment performance since  
6 its inception of lending under the program, as soon as practicable  
7 after its acceptance into the program, but in no event more than  
8 six months after its acceptance into the program.

9 (A) The ~~deputy~~ commissioner may approve a licensee for the  
10 program, before that licensee has been accepted as a data furnisher  
11 by a consumer reporting agency, if the ~~deputy~~ commissioner has  
12 a reasonable expectation, based on information supplied by the  
13 licensee, of both of the following:

14 (i) The licensee will be accepted as a data furnisher, once it  
15 achieves a lending volume required of data furnishers of its type  
16 by a consumer reporting agency.

17 (ii) That lending volume will be achieved within the first six  
18 months of the licensee commencing lending.

19 (B) Notwithstanding subparagraph (A), the ~~deputy~~ commissioner  
20 shall withdraw approval for pilot program participation from any  
21 licensee that fails to become accepted as a data furnisher by a  
22 consumer reporting agency within six months of commencing  
23 lending under the pilot program.

24 (3) The licensee shall provide each borrower with the name of  
25 the consumer reporting agency or agencies to which it will report  
26 the borrower's payment history. A licensee that is accepted as a  
27 data furnisher after admittance into the program shall notify its  
28 borrowers, as soon as practicable following acceptance as a data  
29 furnisher, regarding the name of the consumer reporting agency  
30 or agencies to which it will report that borrower's payment history.

31 (4) (A) The licensee shall underwrite each loan to determine a  
32 borrower's ability and willingness to repay the loan pursuant to  
33 the loan terms, and shall not make a loan if it determines, through  
34 its underwriting, that the borrower's total monthly debt service  
35 payments, at the time of origination, including the loan for which  
36 the borrower is being considered, and across all outstanding forms  
37 of credit that can be independently verified by the licensee, exceed  
38 50 percent of the borrower's gross monthly income.

39 (B) (i) The licensee shall seek information and documentation  
40 pertaining to all of a borrower's outstanding debt obligations during

1 the loan application and underwriting process, including loans that  
2 are self-reported by the borrower but not available through  
3 independent verification. The licensee shall verify that information  
4 using a credit report from at least one consumer reporting agency  
5 that compiles and maintains files on consumers on a nationwide  
6 basis or through other available electronic debt verification services  
7 that provide reliable evidence of a borrower's outstanding debt  
8 obligations.

9 (ii) Notwithstanding the verification requirement in  
10 subparagraph (A), the licensee shall request from the borrower  
11 and include all information obtained from the borrower regarding  
12 outstanding deferred deposit transactions in the calculation of the  
13 borrower's outstanding debt obligations.

14 (iii) The licensee shall not be required to consider, for purposes  
15 of debt-to-income ratio evaluation, loans from friends or family.

16 (C) The licensee shall also verify the borrower's income that  
17 the licensee relies on to determine the borrower's debt-to-income  
18 ratio using information from either of the following:

19 (i) Electronic means or services that provide reliable evidence  
20 of the borrower's actual income.

21 (ii) Internal Revenue Service Form W-2, tax returns, payroll  
22 receipts, bank statements, or other third-party documents that  
23 provide reasonably reliable evidence of the borrower's actual  
24 income.

25 (5) The licensee shall notify each borrower, at least two days  
26 prior to each payment due date, informing the borrower of the  
27 amount due, and the payment due date. Notification may be  
28 provided by any means acceptable to the borrower.

29 (g) (1) Notwithstanding Sections 22311 to 22315, inclusive,  
30 no person, in connection with, or incidental to, the making of any  
31 loan made pursuant to this article, may offer, sell, or require the  
32 borrower to contract for "credit insurance" as defined in paragraph  
33 (1) of subdivision (a) of Section 22314 or insurance on tangible  
34 personal or real property of the type specified in Section 22313.

35 (2) Notwithstanding Sections 22311 to 22315, inclusive, no  
36 licensee, finder, or any other person that participates in the  
37 origination of a loan under this article shall refer a borrower to any  
38 other person for the purchase of "credit insurance" as defined in  
39 paragraph (1) of subdivision (a) of Section 22314 or insurance on

1 tangible personal or real property of the type specified in Section  
2 22313.

3 (h) (1) No licensee shall require, as a condition of providing  
4 the loan, that the borrower waive any right, penalty, remedy, forum,  
5 or procedure provided for in any law applicable to the loan,  
6 including the right to file and pursue a civil action or file a  
7 complaint with or otherwise communicate with the ~~deputy~~  
8 commissioner or any court or other public entity, or that the  
9 borrower agree to resolve disputes in a jurisdiction outside of  
10 California or to the application of laws other than those of  
11 California, as provided by law. Any waiver by a borrower must  
12 be knowing, voluntary, and in writing, and expressly not made a  
13 condition of doing business with the licensee. Any waiver that is  
14 required as a condition of doing business with the licensee shall  
15 be presumed involuntary, unconscionable, against public policy,  
16 and unenforceable. The licensee has the burden of proving that a  
17 waiver of any rights, penalties, forums, or procedures was knowing,  
18 voluntary, and not made a condition of the contract with the  
19 borrower.

20 (2) No licensee shall refuse to do business with or discriminate  
21 against a borrower or applicant on the basis that the borrower or  
22 applicant refuses to waive any right, penalty, remedy, forum, or  
23 procedure, including the right to file and pursue a civil action or  
24 complaint with, or otherwise notify, the ~~deputy~~ commissioner or  
25 any court or other public entity. The exercise of a person's right  
26 to refuse to waive any right, penalty, remedy, forum, or procedure,  
27 including a rejection of a contract requiring a waiver, shall not  
28 affect any otherwise legal terms of a contract or an agreement.

29 (3) This subdivision shall not apply to any agreement to waive  
30 any right, penalty, remedy, forum, or procedure, including any  
31 agreement to arbitrate a claim or dispute, after a claim or dispute  
32 has arisen. Nothing in this subdivision shall affect the enforceability  
33 or validity of any other provision of the contract.

34 (i) This section shall not apply to any loan of a bona fide  
35 principal amount of two thousand five hundred dollars (\$2,500)  
36 or more as determined in accordance with Section 22251. For  
37 purposes of this subdivision, "bona fide principal amount" shall  
38 be determined in accordance with Section 22251.

1 22371. (a) A licensee who is approved by the ~~deputy~~  
2 commissioner to participate in the program may use the services  
3 of one or more finders as provided in this article.

4 (b) For purposes of this article, a “finder” means an entity that,  
5 at the finder’s physical location for business, brings a licensee and  
6 a prospective borrower together for the purpose of negotiating a  
7 loan contract.

8 (c) An entity, whose sole means of bringing a licensee and a  
9 prospective borrower together at that entity’s physical location for  
10 business is via an electronic access point through which a  
11 prospective borrower may directly access the Internet Web site of  
12 a licensee is not a “finder” for purposes of this article.

13 22372. (a) A finder may perform one or more of the following  
14 services for a licensee at the finder’s physical location for business:

15 (1) Distributing, circulating, using, or publishing preprinted  
16 brochures, flyers, factsheets, or other written materials relating to  
17 loans that the licensee may make or negotiate and that have been  
18 reviewed and approved in writing by the licensee prior to their  
19 being distributed, circulated, or published.

20 (2) Providing written factual information about loan terms,  
21 conditions, or qualification requirements to a prospective borrower  
22 that has been either prepared by the licensee or reviewed and  
23 approved in writing by the licensee. A finder may discuss that  
24 information with a prospective borrower in general terms, but may  
25 not provide counseling or advice to a prospective borrower.

26 (3) Notifying a prospective borrower of the information needed  
27 in order to complete a loan application without providing  
28 counseling or advice to a prospective borrower.

29 (4) Entering information provided by the prospective borrower  
30 on a preprinted or electronic application form or onto a  
31 preformatted computer database without providing counseling or  
32 advice to a prospective borrower.

33 (5) Assembling credit applications and other materials obtained  
34 in the course of a credit application transaction for submission to  
35 the licensee.

36 (6) Contacting the licensee to determine the status of a loan  
37 application.

38 (7) Communicating a response that is returned by the licensee’s  
39 automated underwriting system to a borrower or a prospective  
40 borrower.

1 (8) Obtaining a borrower's signature on documents prepared  
2 by the licensee and delivering final copies of the documents to the  
3 borrower.

4 (b) A finder shall not engage in any of the following activities:

5 (1) Providing counseling or advice to a borrower or prospective  
6 borrower.

7 (2) Providing loan-related marketing material that has not  
8 previously been approved by the licensee to a borrower or a  
9 prospective borrower.

10 (3) Interpreting or explaining the relevance, significance, or  
11 effect of any of the marketing materials or loan documents the  
12 finder provides to a borrower or prospective borrower.

13 (c) Any person who performs one or more of the following  
14 activities is a broker within the meaning of Section 22004 rather  
15 than a finder within the meaning of this section:

16 (1) Negotiating the price, length, or any other loan term between  
17 a licensee and a prospective borrower.

18 (2) Advising either a prospective borrower or a licensee as to  
19 any loan term.

20 (3) Offering information pertaining to a single prospective  
21 borrower to more than one licensee, except that, if a licensee has  
22 declined to offer a loan to a prospective borrower and has so  
23 notified that prospective borrower in writing, the person may then  
24 offer information pertaining to a single prospective borrower to  
25 another licensee with which it has a finder's agreement.

26 (4) Personally contacting or providing services to a borrower  
27 or prospective borrower at any place other than the finder's  
28 physical location for business.

29 (d) A finder shall comply with all laws applicable to the licensee  
30 that impose requirements upon the licensee for safeguards for  
31 information security.

32 22373. (a) At the time the finder receives or processes an  
33 application for a program loan, the finder shall provide the  
34 following statement to the applicant, on behalf of the licensee, in  
35 no smaller than 10-point type, and shall ask the applicant to  
36 acknowledge receipt of the statement in writing:

37  
38 "Your loan application has been referred to us by [Name of  
39 Finder]. We may pay a fee to [Name of Finder] for the successful  
40 referral of your loan application. IF YOU ARE APPROVED FOR

1 THE LOAN, [NAME OF LICENSEE] WILL BECOME YOUR  
2 LENDER, AND YOU WILL BE BUILDING A RELATIONSHIP  
3 WITH [NAME OF LICENSEE]. If you wish to report a complaint  
4 about [Name of Finder] or [Name of Licensee] regarding this loan  
5 transaction, you may contact the Department of Business Oversight,  
6 Division of Corporations at 1-866-ASK-CORP (1-866-275-2677),  
7 or file your complaint online at [www.corp.ca.gov](http://www.corp.ca.gov).”

8  
9 (b) If the loan is consummated, the licensee shall provide the  
10 borrower a written copy of the disclosure notice within two weeks  
11 following the date of the loan consummation. A licensee may  
12 include the disclosure within its loan contract, or may provide it  
13 as a separate document to the borrower, via any means acceptable  
14 to the borrower.

15 22374. (a) A finder may be compensated by the licensee  
16 pursuant to the written agreement between the licensee and the  
17 finder, as described in Section 22376.

18 (b) The compensation of a finder by a licensee shall be subject  
19 to all of the following requirements:

20 (1) No fee shall be paid to a finder in connection with a loan  
21 application until and unless that loan is consummated.

22 (2) No fee shall be paid to a finder based upon the principal  
23 amount of the loan.

24 (3) No fee paid to a finder shall exceed the following amounts:

25 (A) Forty-five dollars (\$45) per loan for the first 40 loans  
26 originated each month at the finder's location.

27 (B) Forty dollars (\$40) per loan for any subsequent loans  
28 originated during that month at the finder's location.

29 (4) The finder's location for services under this article and other  
30 information required by Section 22375 has been reported to the  
31 ~~deputy~~ commissioner and the finder has not been barred from  
32 providing services at that location by the ~~deputy~~ commissioner.

33 (c) No licensee shall, directly or indirectly, pass on to a borrower  
34 any fee, or any portion of any fee, that the licensee pays to a finder  
35 in connection with that borrower's loan or loan application.

36 22375. A licensee that utilizes the service of a finder shall do  
37 all of the following:

38 (a) Notify the ~~deputy~~ commissioner within 15 days of entering  
39 into a contract with a finder, on a form acceptable to the ~~deputy~~  
40 commissioner, regarding all of the following:

1 (1) The name and business address of the finder and all locations  
2 at which the finder will perform services under this article.

3 (2) The name and contact information for an employee of the  
4 finder who is knowledgeable about, and has the authority to  
5 execute, the contract governing the business relationship between  
6 the finder and the licensee.

7 (3) The name and contact information for one or more  
8 employees of the finder who are responsible for that finder's  
9 finding activities on behalf of the licensee.

10 (4) A list of the activities the finder shall perform on behalf of  
11 the licensee.

12 (5) Any other information requested by the ~~deputy~~  
13 commissioner.

14 (b) Pay an annual finder registration fee to the ~~deputy~~  
15 commissioner in an amount to be established by the ~~deputy~~  
16 commissioner by regulation for each finder utilized by the licensee.

17 (c) Submit an annual report to the ~~deputy~~ commissioner  
18 including any information pertaining to each finder and the  
19 licensee's relationship and business arrangements with each finder  
20 as the ~~deputy~~ commissioner may by regulation require.

21 22376. All arrangements between a licensee and a finder shall  
22 be set forth in a written agreement between the parties. The  
23 agreement shall contain a provision establishing that the finder  
24 agrees to comply with all regulations that are established by the  
25 ~~deputy~~ commissioner pursuant to this article regarding the activities  
26 of finders and that the ~~deputy~~ commissioner shall have access to  
27 all of the finder's books and records that pertain to the finder's  
28 operations under the agreement with the licensee.

29 22377. (a) The ~~deputy~~ commissioner may examine the  
30 operations of each licensee and each finder to ensure that the  
31 activities of the licensee and the finder are in compliance with this  
32 article. The costs of the ~~deputy~~ commissioner's examination of  
33 each finder shall be attributed to the ~~deputy~~ commissioner's  
34 examination of the licensee. Any violation of this article by a finder  
35 or a finder's employee shall be attributed to the finance lender  
36 with whom it has entered into an agreement for purposes of  
37 determining the licensee's compliance with this division.

38 (b) Upon a determination that a finder has acted in violation of  
39 this article, or any implementing regulation, the ~~deputy~~  
40 commissioner shall have the authority to disqualify a finder from

1 performing services under this article, bar a finder from performing  
2 services at one or more specific locations of that finder, terminate  
3 a written agreement between a finder and a licensee, and, if the  
4 ~~deputy~~ commissioner deems that action in the public interest,  
5 prohibit the use of that finder by all licensees accepted to  
6 participate in the pilot program.

7 (c) In addition to any other penalty allowed by law, the ~~deputy~~  
8 commissioner may impose an administrative penalty up to two  
9 thousand five hundred dollars (\$2,500) for violations of this article  
10 committed by a finder.

11 22378. Notwithstanding the requirements of Section 22102  
12 and its implementing regulations, a licensee accepted to participate  
13 in the program may appoint one or more branch managers with  
14 responsibility for multiple branch locations, subject to approval  
15 by the ~~deputy~~ commissioner, and a finding by the ~~deputy~~  
16 commissioner that the centralized nature of underwriting and other  
17 key business activities performed by the licensee does not require  
18 a unique manager for each branch location, to ensure the protection  
19 of consumers who seek out loans from the licensee. The ~~deputy~~  
20 commissioner may revoke this approval at any time, upon a finding  
21 that a unique branch manager at each branch location is required  
22 for consumer protection.

23 22379. Notwithstanding any other law, the ~~deputy~~  
24 commissioner shall examine each licensee that is accepted into  
25 the program at least once every 24 months. The cost of each  
26 examination of a licensee shall be paid to the ~~deputy~~ commissioner  
27 by the licensee examined, and the ~~deputy~~ commissioner may  
28 maintain an action for the recovery of the cost in any court of  
29 competent jurisdiction. In determining the cost of the examination,  
30 the ~~deputy~~ commissioner may use the estimated average hourly  
31 cost for all persons performing examinations of licensees or other  
32 persons subject to this division for the fiscal year.

33 22380. (a) On or before January 1, 2016, and again, on or  
34 before January 1, 2017, the ~~deputy~~ commissioner shall post a report  
35 on his or her Internet Web site summarizing utilization of the Pilot  
36 Program for Increased Access to Responsible Small Dollar Loans.

37 (b) The information disclosed to the ~~deputy~~ commissioner for  
38 the ~~deputy~~ commissioner's use in preparing the report described  
39 in this section is exempted from any requirement of public

1 disclosure by paragraph (2) of subdivision (d) of Section 6254 of  
2 the Government Code.

3 (c) If there is more than one licensee approved to participate in  
4 the program under this article, the report required pursuant to  
5 subdivision (a) shall state information in aggregate so as not to  
6 identify data by specific licensee.

7 (d) The report required pursuant to this section shall specify the  
8 time period to which the report corresponds, and shall include, but  
9 not be limited to, the following for that time period:

10 (1) The number of entities that applied to participate in the  
11 program.

12 (2) The number of entities accepted to participate in the program.

13 (3) The reason or reasons for rejecting applications for  
14 participation, if applicable. This information shall be provided in  
15 a manner that does not identify the entity or entities rejected.

16 (4) The number of program loan applications received by lenders  
17 participating in the program, the number of loans made pursuant  
18 to the program, the total amount loaned, and the distribution of  
19 interest rates and principal amounts upon origination among those  
20 loans.

21 (5) The number of borrowers who obtained more than one  
22 program loan.

23 (6) Of the number of borrowers who obtained more than one  
24 program loan, the percentage of those borrowers whose credit  
25 scores increased between successive loans, based on information  
26 from at least one major credit bureau, and the average size of the  
27 increase.

28 (7) The income distribution of borrowers upon loan origination.

29 (8) The number and type of finders used by licensees and the  
30 relative performance of loans consummated by finders compared  
31 to the performance of loans consummated without a finder.

32 (9) The number and percentage of borrowers who obtained one  
33 or more program loans on which late fees were assessed, the total  
34 amount of late fees assessed, and the average late fee assessed by  
35 dollar amount and as a percentage of the principal amount loaned.

36 (10) The number and percentage of borrowers who defaulted  
37 on a program loan.

38 (11) The number and types of violations of this article by finders,  
39 which were documented by the ~~deputy~~ commissioner.

1 (12) The number and types of violations of this article by  
2 licensees, which were documented by the ~~deputy~~ commissioner.

3 (13) The number of times that the ~~deputy~~ commissioner  
4 disqualified a finder from performing services, barred a finder  
5 from performing services at one or more specific locations of the  
6 finder, terminated a written agreement between a finder and a  
7 licensee, or imposed an administrative penalty.

8 (14) The number of complaints received by the ~~deputy~~  
9 commissioner about a licensee or a finder, and the nature of those  
10 complaints.

11 (15) Recommendations for improving the program.

12 (16) Recommendations regarding whether the program should  
13 be continued after January 1, 2018.

14 (e) The ~~deputy~~ commissioner shall conduct a random sample  
15 survey of borrowers who have participated in the program to obtain  
16 information regarding the borrowers' experience and licensees'  
17 compliance with this article. The results of this survey shall be  
18 included in the report required by this section.

19 22380.5. (a) *The Pilot Program for Affordable Credit-Building*  
20 *Opportunities as described in Article 3.5 (commencing with Section*  
21 *22348) is abolished.*

22 (b) *All powers, duties, purposes, jurisdiction, responsibilities,*  
23 *and functions of the Commissioner of Corporations with respect*  
24 *to the former Article 3.5 (commencing with Section 22348) are*  
25 *transferred to the Commissioner of Business Oversight.*

26 (c) *Any licensee approved to participate in the Pilot Program*  
27 *for Affordable Credit-Building Opportunities as described in the*  
28 *former Article 3.5 (commencing with Section 22348) shall be*  
29 *transferred to, and subject to, the provisions of this article.*

30 (d) *Any outstanding loans made under the former Pilot Program*  
31 *for Affordable Credit-Building Opportunities as described in*  
32 *Article 3.5 (commencing with Section 22348) shall continue in*  
33 *existence and be valid on and after January 1, 2014, subject to*  
34 *those terms and conditions that existed at the time the loan was*  
35 *made pursuant to the former Article 3.5 (commencing with Section*  
36 *22348).*

37 22381. This article shall remain in effect only until January 1,  
38 2018, and as of that date is repealed, unless a later enacted statute,  
39 that is enacted before January 1, 2018, deletes or extends that date.

~~SEC. 2.~~

*SEC. 3.* Section 22750 of the Financial Code is amended to read:

22750. (a) If any amount other than, or in excess of, the charges permitted by this division is willfully charged, contracted for, or received, the contract of loan is void, and no person has any right to collect or receive any principal, charges, or recompense in connection with the transaction.

(b) If any provision of this division is willfully violated in the making or collection of a loan, whether by a licensee or by an unlicensed person subject to this division, the contract of loan is void, and no person has any right to collect or receive any principal, charges, or recompense in connection with the transaction.

~~SEC. 3.~~

*SEC. 4.* No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.